

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION
WASHINGTON 25, D. C.

November 5, 1951

TELEPHONE ENGINEERING MEMORANDUM 524

Subject: Contract to Construct Buildings, REA Form DS-T-46

The attached copy of "Contract to Construct Buildings," REA Form DS-T-46, has been prepared for use by borrowers, when needed, to construct or alter buildings in connection with telephone loans. The Contract is made up of "Notice and Instructions to Bidders," "Proposal to Construct Buildings," "Acceptance" of the Proposal, and a form of "Contractor's Bond."

REA policy requires that competitive bids be taken on all construction to be performed under a construction contract unless the borrower can demonstrate that some other procedure would better serve the interest of the borrower. Where competitive bids are taken the contract must be awarded to the lowest responsible bidder unless all bids are rejected or unless the borrower can show that the award of the contract to other than the low bidder is in the best interest of the borrower. When the contract is awarded on a basis other than competitive bidding, the "Notice and Instructions to Bidders" may be deleted.

Space has been provided on page 1 of the "Proposal to Construct Buildings" for identifying the plans and specifications by naming the Architect or Owner's representative who prepared the plans and specifications and for indicating the date of the plans and specifications and for indicating the date of approval by REA of the plans and specifications. It is essential that these blanks be filled in prior to the issuance of the Proposal form for bidding in order to properly identify the plans and specifications referred to in the first paragraph of the Proposal.

The "Proposal to Construct Buildings" has a provision for listing each building separately and further provides for alternate bids when such are necessary. The alternates, if any, are to be fully described on a separate sheet in the specifications and on the plans, when necessary, and each alternate identified by a number.

Space for indicating the time for completion of construction is provided in section 1 of article II of the "Proposal to Construct Buildings." This completion time is to be filled in by the Architect or Engineer in collaboration with the Borrower at the time the plans and specifications are prepared.

The space provided in section 1 of article V of the "Proposal to Construct Buildings" for specifying the amount due each day as liquidated damages is to be filled out by the Architect or Engineer in collaboration with the Borrower at the time the plans and specifications are prepared.

Copies of Form DS-T-46 are available from REA upon request.

J. K. O'Shaughnessy
J. K. O'Shaughnessy
Chief, Engineering Division

Attachment:
REA Form DS-T-46

NOTICE AND INSTRUCTIONS TO BIDDERS

1. Sealed proposals for the construction or alteration (including furnishing all necessary materials, machinery, labor and equipment), of the buildings listed below by functional name and location (hereinafter called the "Project") to be financed pursuant to a loan contract between _____ (hereinafter called the "Owner") and the United States of America, acting through the Administrator of the Rural Electrification Administration and designated _____ will be received by the Owner on or before _____ o'clock _____ M., 19____, at its office located at _____ at which time and place the proposals will be publicly opened and read.

<u>Name of Building</u>	<u>Location</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. The Plans and Specifications, together with all other necessary

forms and documents for bidders, may be secured from _____

_____ at _____ upon

payment of _____ (\$ _____) which payment will be refunded to each bonafide bidder within ten (10) days after the bid opening. Additional sets of Plans and Specifications may be obtained upon payment of _____ (\$ _____) which payment will not be subject to refund. The Plans and Specifications may be examined at the office of _____. A copy of the loan contract may also be examined at the office of the Owner.

3. Proposals and all supporting documents required to be attached thereto must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope, addressed to the Owner. The name and address of the Bidder, its license number, if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the proposal is submitted. Proposals must be filled in in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated. Bidders will be required to comply with all applicable statutes, regulations, etc., including those pertaining to the licensing of contractors and the so-called "Kick-Back" Statute (48 Stat. 948) and regulations issued pursuant thereto.

4. Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the site (s) of the Project and of the Plans and Specifications, forms of Construction Agreement and Contractor's Bond attached hereto and shall become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of the soil and terrain to be encountered, the kind of facilities required before and during the construction of the Project, general local conditions and all other matters that may affect the cost and the time of completion of the Project.

5. Each Bidder shall include and shall be deemed to have included, in the price quoted in the Proposal, the amount which it is estimated will be payable by the successful Bidder or by the Owner on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies or equipment incorporated in the Project. All taxes of the foregoing description shall be payable by the Bidder which shall be awarded the contract for the construction of the Project.

6. A Bidder who has not already completed similar construction for an REA Borrower, shall file with the Architect the Bidder's Qualifications on forms supplied by the Architect at least forty-eight (48) hours in advance of the scheduled bid opening.

7. The time of completion of the Project shall be as specified by the Architect in the form of Proposal.

8. Each Proposal must be accompanied by a bid bond or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to five percent

(5%) of the maximum bid price. If a Proposal is not accepted or if a Proposal is accepted and a satisfactory Contractor's Bond is furnished by the successful Bidder, the bid bond or check will be returned in each instance within a period of thirty (30) days to the Bidder furnishing same; except that each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such bid bond or check in consideration of the Owner's receiving and considering such Proposal, said Proposal shall be firm and binding upon each such Bidder and such bid bond or check shall be held by the Owner for a period of not exceeding sixty (60) days from the date hereinabove set for the opening of Proposals.

9. The successful Bidder will be required to furnish a Contractor's Bond in the form attached hereto and with sureties listed by the United States Treasury Department as acceptable sureties, in a penal sum not less than the contract price.

10. Should the successful Bidder fail or refuse to furnish a Contractor's Bond satisfactory to the Owner and the Administrator within ten (10) days after written notification of the award of the Contract by the Owner, the Bidder will be considered to have abandoned the Proposal and the amount of the certified check or other security delivered with the Proposal shall thereupon be due and owing to the Owner as liquidated damages for such failure or refusal and the Owner may thereupon award Contract to any other Bidder. The term "successful Bidder" shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to furnish a satisfactory Contractor's Bond.

11. The Contract, when executed, shall be deemed to include the entire agreement between the parties thereto, and the Contractor shall not claim any modification thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.

12. The Owner reserves the right to waive minor irregularities or minor errors in the Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal prior to its acceptance by the Owner.

13. The Owner reserves the right to reject any or all Proposals.

14. The Owner represents:

- (a) If by other provisions of the contract documents the Owner shall have undertaken to furnish any materials for the construction of the Project, such materials are on hand at locations which may be determined by inquiry by Bidders from the Architect or if such materials are not on hand they will be made available by the Owner to the successful Bidder before the time such materials are required for construction.

- (b) Title to the property on which the Project is to be constructed has been obtained.
- (c) All funds necessary for prompt payment for the construction of the Project will be available.

If the Owner shall fail to comply with any of the undertakings contained in the foregoing representations or if any of such representations shall be incorrect, the Bidder will be entitled to extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing, and provided further that such extension, if any, of the time of completion shall be the sole remedy of the Bidder for the Owner's failure to comply with any of the foregoing representations.

Owner

By _____

Dated _____

PROPOSAL TO CONSTRUCT BUILDINGS

TO: _____

(hereinafter called the "Owner").

The undersigned (hereinafter called the "Bidder") proposes to construct the Project specified in the Notice and Instructions to Bidders attached hereto, financed in whole or in part by a loan to the Owner by the United States of America, acting through the Administrator of the Rural Electrification Administration (hereinafter called the "Administrator") designated _____, and to furnish all materials, machinery, labor and equipment necessary therefor as described in the Plans and Specifications (hereinafter called the "Plans and Specifications") and by this reference made a part hereof, prepared by _____ (hereinafter called the "Architect") and dated _____, 19____, and approved by the Rural Electrification Administration on _____, 19____.

The Bidder has made a careful examination of the site on which the Project is to be constructed, has become informed as to the kind of facilities required before and during the construction of the Project and has become acquainted with the labor conditions which would affect the work.

Section 2. Changes in Construction. The Owner, acting through the Architect and with the approval of the Administrator, may from time to time during the progress of the construction of the Project, make such changes, additions to or subtractions from the Plans and Specifications which are part of the Proposal as conditions may warrant; Provided, however, That if substantial change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefor to the Owner within ten days after any such change is made, and Provided further, That if the cost to the Bidder shall be increased or decreased by any such change or addition, the contract price shall be increased or decreased by the reasonable cost thereof in accordance with a construction contract amendment signed by the Owner and the Bidder and approved by the Architect and the Administrator, but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefor to the Owner prior to the commencement of work in connection with such change or addition.

Section 3. Taxes. The price quoted herein includes all amounts which the Bidder estimates will be payable by the Bidder or the Owner on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies or equipment to be incorporated in the Project. The Bidder will pay all such taxes and will furnish to appropriate taxing authorities any required information and reports pertaining thereto.

ARTICLE II

Construction

Section 1. Time of Construction. The Bidder will commence to work within thirty (30) calendar days after written notice by the Administrator of the approval of the contract and further agrees to prosecute diligently and to complete construction to the satisfaction of the Owner and the Administrator within _____ () calendar days (excluding Saturdays, Sundays, and legal holidays) after the expiration of such 30-day period. The time for completion herein set forth shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including acts of God, fires, floods, direction by the Architect to cease construction during periods when in the judgment of the Architect it is impractical to perform any operation of construction, and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible; provided, however, that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefor in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes or from any changes in construction which may be made pursuant to Section 2 of Article I, shall result in any liability on the part of the Owner.

Section 2. Supervision and Inspection. The Bidder will give sufficient supervision to the work, using his best skill and attention. He will carefully study and compare all drawings, specifications and other instructions and will at once report to the Architect any error, inconsistency or omission which he may discover. The Bidder will keep on his work during its progress a competent superintendent and any necessary assistants, all satisfactory to the Architect. The superintendent shall not be changed except with the consent of the Architect unless the superintendent proves to be unsatisfactory to the Bidder and ceases to be in his employ. The superintendent shall represent the Bidder in his absence and all directions given to him shall be as binding as if given to the Bidder. When requested, such directions shall be confirmed in writing.

Section 3. Detailed Drawings and Instructions. The Bidder will perform the work in accordance with such instructions, by drawings or otherwise, as the Architect may deem necessary for the execution of the work. All such drawings and instructions shall be consistent with the Plans and Specifications and this Proposal.

Section 4. Shop Drawings. The Bidder will submit with such promptness as to cause no delay in the work two copies of all shop or setting drawings and schedules required for the work of the various trades and the Architect shall pass on them with reasonable promptness, making all necessary corrections thereto. The Bidder will make any corrections required by the Architect, file with him three corrected copies and furnish such other copies as may be needed. The Architect's approval of such drawings or schedules shall not relieve the Bidder of responsibility for deviations from the Plans and Specifications.

Section 5. Samples. The Bidder will furnish samples of materials to the Architect, as directed by the Architect, and will perform the work in accordance with such approved samples.

Section 6. Inspection and Tests. The manner of construction of the work to be performed hereunder and all materials and equipment used therein shall be subject to the inspection, tests, and approval of the Architect and the Administrator and the Bidder will furnish all information required by the Architect or the Administrator concerning the nature or source of materials. The Owner and the Administrator shall have the right to inspect all records of the Bidder and of any subcontractor relevant to the work and the Bidder will maintain an office at the site of the Project, with telephone service where obtainable, wherein the payroll and other data and records of the Bidder relevant to the work will be available to the Owner for inspection. The Bidder will provide all reasonable facilities necessary for such inspection and tests. The Bidder will uncover any work which the Architect may desire to examine. The cost of uncovering and replacing such work shall be borne by the Bidder unless such examination shall disclose the work to have been performed in accordance with the Plans and Specifications. Unless otherwise specified, all materials shall be new.

Section 7. Employees. The Owner shall have the right to require the removal from the work of any employee of the Bidder if in the judgment of the Architect such removal shall be necessary in order to protect the interest of the Owner.

Section 8. Defective Workmanship and Materials. Notwithstanding the acceptance of workmanship, materials or equipment or the giving of any certificate with respect to the completion of the work, if during the construction or within one year after such completion, or within such longer period as the Project or any part thereof may be guaranteed by other provisions of this Proposal or the Plans and Specifications, the workmanship, materials or equipment shall be found to be defective or not in conformity with the requirements of the Plans and Specifications, the Bidder will remedy or replace such workmanship, materials or equipment within thirty (30) days after written notice of the failure of the Bidder to conform with the applicable provisions of the contract documents shall have been given to the Bidder by the Owner.

ARTICLE III

Payments and Releases of Liens

Section 1. Payments to Bidder. (a) Within the first fifteen (15) days of each calendar Month the Owner shall make partial payment to the Bidder for construction accomplished during the preceding Calendar Month on the basis of estimates thereof certified to by the Bidder and approved by the Architect solely for the purposes of payment; provided, however, that such approval by the Architect shall not be deemed approval of the workmanship or materials; and, provided further, that in estimating the cost of construction accomplished, consideration shall be given only to equipment or materials incorporated into the Project. Only ninety (90) percent of each such estimate approved during the construction of the Project shall be paid by the Owner to the Bidder prior to completion of Project. Upon completion by the Bidder of the construction of the Project, the Architect shall inspect the work performed hereunder and if he shall find the work acceptable and all provisions hereunder fully performed, he shall so certify to the Owner and shall fully certify the balance found to be due to the Bidder. The final certificate of the Architect after it has been approved by the Owner shall thereupon be submitted to the Administrator for his approval and when such approval has been given, the Owner shall make payment to the Bidder of all unpaid amounts to which the Bidder shall be entitled hereunder. No payments shall be due while the Bidder is in default in respect of any of the provisions of this Proposal and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Proposal.

(b) Interest at the rate of six percent (6%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date, and on the final payment for the Project commencing thirty (30) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder.

Section 2. Release of Liens. Upon the completion by the Bidder of the construction of the Project but prior to the payment to the Bidder of any amount in excess of ninety (90) percent of the Bid Price, as and if revised, the Bidder shall deliver to the Owner in duplicate, on forms approved by the Administrator, releases of all liens and of rights to claim any lien from manufacturers, materialmen and subcontractors who have furnished materials or services for the construction of the Project and an affidavit by the Bidder in a form satisfactory to the Administrator, to the effect that all labor used on or for the Project has been paid and that all such releases have been submitted to the Owner, and the Owner shall deliver to the Administrator for his approval one of the duplicates of each release and affidavit.

ARTICLE IV

Particular Undertakings of the Bidder

Section 1. Protection to Persons and Property. The Bidder will, at all times, take all reasonable precautions for the safety of employees on the work and of the public, and will comply with all applicable provisions of Federal, State and Municipal safety laws and building and construction codes. All machinery and equipment and other physical hazards shall be guarded in accordance with the "Manual of Accident Prevention in Construction" of the Associated General Contractors of America, unless such instructions are incompatible with Federal, State or Municipal laws or regulations.

The following provisions shall not limit the generality of the above requirements.

(a) The Bidder will, at all times, keep the premises free from accumulation of waste material or rubbish caused by his employees or work, and at the completion of the work he will remove all rubbish from and about the Project and all his tools, scaffolding and surplus materials and will leave his work "broom clean."

(b) The work, from its commencement to completion, or to such earlier date or dates when the Owner may take possession and control, as provided in Section 8 of Article IV shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection therewith and the materials to be used therein shall be borne by the Bidder. The Bidder will make good and fully repair all injuries and damages to the Project or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or cause, whether or not the same shall have occurred by reason of the Bidder's negligence. The Bidder will hold the Owner harmless from any and all claims for injuries to persons or for damage to property during the control by the Bidder of the Project or any part thereof.

(c) The Bidder will confine his apparatus, the storage of materials and the operations of his workmen to limits indicated by law, ordinances, permits, or directions of the Architect, and will not unreasonably encumber the premise with his materials.

(d) The Bidder will not load or permit any part of the structure to be loaded with a weight that will endanger its safety.

(e) The Bidder will submit to the Owner monthly reports in duplicate of all accidents giving such data as may be prescribed by the Architect.

(f) The Bidder will provide all watchmen determined by the Architect to be necessary to protect properly all construction work done and materials furnished under this Proposal.

(g) Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Architect, the Owner, or a duly authorized representative of the Administrator, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do, the Owner may correct such violation at the Bidder's expense; Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notices to the Bidder.

Section 2. Insurance. The Bidder shall take out and maintain throughout the construction period insurance in the following minimum requirements:

- (1) Workmen's compensation insurance covering all employees in statutory limits who perform any of the obligations assumed by the Bidder under the Proposal.
- (2) Public liability and property damage liability insurance covering all operations under the Proposal: limits for bodily injury or death not less than \$50,000 for one person and \$100,000 for each accident; for property damage, not less than \$10,000 for each accident and \$25,000 aggregate for accidents during the policy period.
- (3) Automobile Liability insurance on all self-propelled vehicles used in connection with the Proposal, whether owned, nonowned, or hired; public liability limits of not less than \$50,000 for one person and \$100,000 for each accident; property damage limit of \$5,000 for each accident.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsections (2) and (3) of this Section 2. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the bid price.

Upon request by the Administrator, the Bidder shall furnish to the Administrator a certificate in such form as the Administrator may prescribe evidencing compliance with the foregoing requirements.

Section 3. Purchase of Materials. The Bidder will purchase all materials and supplies outright and not subject to any conditional sales agreements, bailment lease or other agreement reserving unto the seller any right, title or interest therein. All materials and supplies shall become the property of the Owner when erected in place.

Section 4. Assignment of Guarantees. All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner after completion of construction and at such time as the Bidder receives final payment.

Section 5. Patent Infringement. The Bidder will hold harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any equipment used in the work.

Section 6. Compliance with Statutes and Regulations. The Bidder will comply with all applicable statutes, ordinances, rules and regulations pertaining to the work. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the so-called "Kick-Back" Statute (48 Stat. 948), and all regulations issued pursuant thereto, and Section 35 of the United States Criminal Code, as amended and the Bidder agrees to comply with the provisions of all of such statutes and regulations. The Bidder will furnish weekly an affidavit in the form attached hereto and made a part hereof and shall preserve a copy of the Bidder's payroll for three years after the date of completion, as required by the regulations issued under the "Kick-Back" Statute.

Section 7. Delivery of Possession and Control to Owner. Upon written request of the Owner approved in writing by the Administrator the Bidder shall deliver to the Owner full possession and control of any part of the Project provided the Bidder shall have been paid at least 90 percent (90%) of the cost of construction of such part. Upon such delivery of the possession and control of such part of the Project to the Owner the risks and obligations of the Bidder as set forth in Section 1 (b), Article IV hereof with respect to the part of the Project so delivered to the Owner shall be terminated; Provided, however, That nothing herein contained shall relieve the Bidder of any liability with respect to defective workmanship or materials as contained in Section 8, Article II.

Section 8. Occupancy Before Completion. The Owner agrees not to occupy any part of the Project prior to the date of completion except upon written approval of the Bidder. It is agreed that such occupancy of the Project will not constitute acceptance of workmanship or materials used in the construction of the Project as provided in Section 8, Article II and that such approval will not relieve the Bidder from his obligation to complete any part of the Project in compliance with the contract documents. The Owner further agrees to permit the Bidder to fulfill the requirements of the contract documents in accordance with instructions issued to the Bidder by the Architect upon occupancy by the Owner.

ARTICLE V

Remedies

Section 1. Liquidated Damages. The time of completion of the construction of the Project is of the essence of this Contract. Should the Bidder neglect, refuse or fail to complete the Project within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due or which may become due and payable to the Bidder, the sum of _____ dollars (\$ _____) per day for each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty. If the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full; Provided, however, That the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 2. Completion on Bidder's Default. If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the surety or sureties upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Contractor such default shall be corrected or arrangements for the correction thereof, satisfactory to both the Owner and the Administrator, shall be made by the Bidder or its surety or sureties, the Owner may take over the construction of the Project and prosecute the same to completion by contract or otherwise for the account and at the expense of the Bidder, and the Bidder and its surety or sureties shall be liable to the Owner for any cost or expense in excess of the contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the Project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the Project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Proposal and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.

Section 3. Cumulative Remedies. Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election; provided, however, that the provisions of Section 1 of this Article V shall be exclusive measure of damages for failure by the Bidder to complete the construction of the Project within the time herein agreed upon.

ARTICLE VI

Miscellaneous

Section 1. Definitions.

(a) The term "Architect" as used herein shall mean the Architect or engineer, if any, employed by the Owner with the approval of the Administrator to design and supervise the construction of the Project and said Architect's duly authorized assistants and representatives. If an Architect is not employed, the term shall apply to the duly authorized agent of the Owner supervising construction of the Project.

(b) The term "Completion" shall mean full performance by the Bidder of the Bidder's obligations herein set out and all amendments and revisions thereof. Certificate of completion signed by the Architect and approved in writing by the Administrator within a reasonable time after completion shall be conclusive evidence as to the fact of completion and the date thereof.

Section 2. Materials and Supplies. The Bidder will use only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States substantially all from articles, materials or supplies mined, produced or manufactured, as the case may be, in the United States; provided that foreign articles, materials or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. The Bidder agrees to submit to the Owner such certificate or certificates, signed by the Bidder and all subcontractors, with respect to compliance with the foregoing provision if and as the Administrator, from time to time, may require.

Section 3. Bond. The Bidder shall furnish to the Owner a bond in a penal sum not less than the bid price and in the form attached hereto and with a surety or sureties listed by the United States Treasury Department as acceptable Sureties.

Section 4. Nonassignment of Contract. The Bidder will not assign this contract, or any part thereof, or enter into any subcontract with any person, firm or corporation, for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner, the Surety and the Administrator.

Section 5. Discrimination. The Bidder shall not discriminate against any employee or applicant for employment because of race, creed, color or national origin.

Section 6. Governmental Regulations. The Bidder understands that the obligations of the parties hereunder are subject to the applicable regulations of the Defense Production Administration, National Production Authority, Economic Stabilization Agency, Office of Price

Stabilization, Wage Stabilization Board, Defense Mobilization and other government agencies having jurisdiction in the premises.

Section 7. License. The Bidder warrants that it possesses Contractor's License No. _____ for the State of _____ in which the Project is located, and said license expires on _____, 19____.

Section 8. Resources and Equipment. The Bidder warrants that it has adequate financial resources and agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction:

- (a) All necessary tools and equipment of kinds and quantities satisfactory to the Architect.
- (b) Superintendents and foremen whose qualifications are satisfactory to the Architect.

Section 9. Extension to Successors and Assigns. Each and all of the covenants and agreements contained in the contract effected by the acceptance of this Proposal shall extend to and be binding upon the successors and assigns of the parties thereto.

Section 10. Approval of the Administrator. The acceptance of this Proposal by the Owner shall not create a contract until such acceptance shall be approved in writing by the Administrator.

Section 11. The term "Administrator" as used herein shall mean the Administrator of the Rural Electrification Administration of the United States of America and his duly authorized representatives or any other person in whom or authority in which may be vested the duties and functions which the Administrator is now authorized by law to perform.

Section 12. Upon acceptance of this Proposal the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.

Bidder

By _____

Title

Address

Date

(The proposal must be signed with the full name of the Bidder. If the Bidder is a partnership the proposal must be signed in the partnership name by each partner. If the proposal is a corporation the proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation. A typewritten copy of all such names and signatures shall be appended.)

ACCEPTANCE

Subject to the approval of the Administrator, the Owner hereby
accepts the Proposal of the _____ for the
construction of the Project therein described for the Base Bid of
\$ _____, and

Alternate Bid No. _____ (add) (deduct) \$ _____

Alternate Bid No. _____ (add) (deduct) \$ _____

Alternate Bid No. _____ (add) (deduct) \$ _____

Alternate Bid No. _____ (add) (deduct) \$ _____

Alternate Bid No. _____ (add) (deduct) \$ _____

Alternate Bid No. _____ (add) (deduct) \$ _____

The total contract price is \$ _____

Owner

By _____
President

Secretary

Dated _____

SAMPLE AFFIDAVIT

STATE OF _____

COUNTY OF _____

I, _____
Name of Party Signing Affidavit

_____, being duly sworn,
Title

do depose and say: That I pay or supervise the payment of the persons
employed by _____,
Contractor or Subcontractor

on the _____: That during the
Building or Work

payroll period commencing on the _____ day of _____,
19____, and ending the _____ day of _____, 19____,

all persons on said project have been paid the full weekly wages earned,
that no rebates have been or will be made either directly or indirectly
to or on behalf of said _____
Contractor or Subcontractor

from the full weekly wages earned by any person and that no deductions
have been made either directly or indirectly from the full weekly wages
earned by any person, other than permissible deductions, as defined in the
regulations under the "Kick-Back" Statute (48 Stat. 948) and described
below:

Signature and Title

Sworn to before me this _____
day of _____, 19____.

CONTRACTOR'S BOND

1. Know all men that we, _____
_____, as Principal, and _____
_____, as Surety, are held and firmly bound unto

(hereinafter called the "Owner") and unto the United States of America
(hereinafter called the "Government") and unto all persons, firms and
corporations who or which may furnish materials for or perform labor on
the Building (s) which is (are) a part of Rural Electrification Adminis-
tration Project designated _____,
and to their successors and assigns, in the penal sum of _____
_____ Dollars (\$ _____), as hereinafter
set forth and for the payment of which sum well and truly to be made we
bind ourselves, our executors, administrators, successors and assigns
jointly and severally by these presents. Said Building (s) is (are)
described in a certain contract to construct building (s) (hereinafter
called the "Construction Contract") between the Owner and the Principal,
dated _____, 19_____, pursuant and subject to a
certain loan contract (hereinafter called the "Loan Contract") between
the Owner and the Government, acting through the Administrator of the
Rural Electrification Administration (hereinafter called the "Administrator").

2. The condition of this obligation is such that if the Principal
shall well and truly perform and fulfill all the undertakings, covenants,
terms, conditions and agreements of the Construction Contract and any
amendments thereto, whether such amendments are for additions, decreases,
or changes in materials, their quantity, kind or price, labor costs or any
other purpose whatsoever, and whether such amendments are made with or
without notice to the Surety, and shall fully indemnify and save harmless
the Owner and the Government from all costs and damages which they, or
either of them, shall suffer or incur by reason of any failure to so do,

and shall fully reimburse and repay the Owner and the Government for all outlay and expense which they, or either of them, shall incur in making good any such failure of performance on the part of the Principal, and shall promptly make payment to all persons supplying labor and materials for use in the construction contemplated in the Construction Contract and any amendments thereto, in respect of such labor or materials furnished or used therein, to the full extent thereof, and in respect of such labor or materials furnished, but not so used, to the extent of the quantities estimated in the Construction Contract and any amendments thereto to be required for the construction of the Project, as provided in the Construction Contract and any amendments thereto, occasioned by any default of the Principal under the Construction Contract and any amendments thereto, then this obligation shall be null and void, but otherwise shall remain in full force and effect.

3. It is expressly agreed that this bond shall be deemed amended automatically and immediately, without formal and separate amendment hereto, upon any amendment to the Construction Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Construction Contract as so amended, provided only that the total amount of all increases in the cost of construction shall not exceed 20 percent of the amount of the maximum price set forth in the Construction Contract. The term "amendment," wherever used in this bond, and whether referring to this bond, the Construction Contract or the Loan Contract, shall include any alteration, addition, extension, modification, amendment, rescission, waiver, release or annulment, of any character whatsoever.

4. It is expressly agreed that any amendment which may be made by agreement or otherwise between the Principal and the Owner in the terms, provisions, covenants and conditions of the Construction Contract, or in the terms, provisions, covenants and conditions of the Loan Contract (including, without limitation, the granting by the Administrator to the Owner of any extension of time for the performance of the obligations of the Owner under the Loan Contract or the granting by the Administrator or to the Principal of any extension of time for the performance of the obligations of the Principal under the Construction Contract, or the failure or refusal of the Administrator or the Owner to take any action, proceeding or step to enforce any remedy or exercise any, right under either the Construction Contract or the Loan Contract, or the taking of any action, proceeding or step by the Administrator or the Owner, acting in good faith upon the belief that the same is permitted by the provisions of the Construction Contract or the Loan Contract) shall not in any way release the Principal and the Surety, or either of them, or their respective executors, Administrators, successors or assigns, from liability hereunder. The Surety hereby acknowledges receipts of notice of any amendment, indulgence or forbearance made, granted or permitted.

5. This bond is made for the benefit of all persons, firms and corporations who or which may furnish any materials or perform any labor for or on account of the construction to be performed under the Construction Contract and any amendments thereto, and they, and each of them, are hereby made obligees hereunder with the same force and effect as if their names were written herein as such, and they and each of them may sue hereon.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this _____ day of _____, 19____.

Principal (Seal)

Attest: By _____

Surety (Seal)

Attest: By _____

By _____
Resident Agent of Surety

(The Contractor's Bond must be signed with the full name of the Contractor. If the Contractor is a partnership the Contractor's Bond must be signed in the partnership name by each partner. If the Contractor is a corporation the Contractor's Bond must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation. A typewritten copy of all such names and signatures shall be appended. The Contractor's Bond must be accompanied by a power of attorney authorizing execution on behalf of the Surety and, in jurisdictions so requiring, should be countersigned by a duly authorized resident agent of the Surety.)

